



February 20, 2004

ENGROSSED

SENATE BILL No. 481

DIGEST OF SB 481 (Updated February 17, 2004 3:00 pm - DI 97)

Citations Affected: IC 27-1; noncode.

Synopsis: Title insurance continuing education. Specifies a title insurance qualification for insurance producers. Establishes: (1) an exemption from insurance producer licensure for certain individuals; and (2) requirements for: (a) prelicensing courses for title insurance producers; and (b) continuing education for limited lines producers who have a title insurance qualification. Adds a member to the insurance producer education and continuing education advisory council.

Effective: July 1, 2004.

Paul

(HOUSE SPONSORS — FRY, FOLEY)

January 13, 2004, read first time and referred to Committee on Insurance and Financial Institutions.

January 29, 2004, reported favorably — Do Pass.

February 3, 2004, read second time, ordered engrossed. Engrossed.

February 4, 2004, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 6, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 19, 2004, amended, reported — Do Pass.

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ES 481—LS 7092/DI 97+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 481

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-15.6-4, AS AMENDED BY P.L.129-2003,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 4. (a) As used in this section, "insurer" does not
4 include an officer, director, employee, subsidiary, or affiliate of an
5 insurer.

6 (b) This chapter does not require an insurer to obtain an insurance
7 producer license.

8 (c) The following are not required to be licensed as an insurance
9 producer:

10 (1) An officer, director, or employee of an insurer or of an
11 insurance producer, if the officer, director, or employee does not
12 receive any commission on policies written or sold to insure risks
13 that reside, are located, or are to be performed in Indiana, and if:

14 (A) the officer, director, or employee's activities are executive,
15 administrative, managerial, clerical, or a combination of these,
16 and are only indirectly related to the sale, solicitation, or
17 negotiation of insurance;

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(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of

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electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

(9) An individual who:

(A) furnishes only title insurance rate information at the request of a consumer; and

(B) does not discuss the terms or conditions of a title insurance policy.

SECTION 2. IC 27-1-15.6-6, AS AMENDED BY P.L.1-2002, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(b) Before approving an application submitted under subsection (a), the commissioner must find that the individual meets the following requirements:

(1) Is at least eighteen (18) years of age.

(2) Has not committed any act that is a ground for denial, suspension, or revocation under section 12 of this chapter.

(3) Has completed, if required by the commissioner, a certified prelicensing course of study for the lines of authority for which the individual has applied.

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(4) Has paid the nonrefundable fee set forth in section 32 of this chapter.

(5) Has successfully passed the examinations for the lines of authority for which the individual has applied.

(c) An applicant for a resident insurance producer license must file with the commissioner on a form prescribed by the commissioner a certification of completion certifying that the applicant has completed an insurance producer program of study certified by the commissioner under IC 27-1-15.7-5 not more than six (6) months before the application for the license is received by the commissioner. This subsection applies only to licensees seeking qualification in the lines of insurance described in sections 7(a)(1) through 7(a)(6) **and 7(a)(8)** of this chapter.

(d) A business entity, before acting as an insurance producer, is required to obtain an insurance producer license. The application submitted by a business entity under this subsection must be made using the uniform business entity application. Before approving the application, the commissioner must find that the business entity has:

- (1) paid the fees required under section 32 of this chapter; and
- (2) designated an individual licensed producer responsible for the business entity's compliance with the insurance laws and administrative rules of Indiana.

(e) The commissioner may require any documents reasonably necessary to verify the information contained in an application submitted under this subsection.

(f) An insurer that sells, solicits, or negotiates any form of limited line credit insurance shall provide a program of instruction approved by the commissioner to each individual whose duties will include selling, soliciting, or negotiating limited line credit insurance.

SECTION 3. IC 27-1-15.6-7, AS ADDED BY P.L.132-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Unless denied licensure under section 12 of this chapter, a person who has met the requirements of sections 5 and 6 of this chapter shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

- (1) Life — insurance coverage on human lives, including benefits of endowment and annuities, that may include benefits in the event of death or dismemberment by accident and benefits for disability income.
- (2) Accident and health or sickness — insurance coverage for sickness, bodily injury, or accidental death that may include

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benefits for disability income.

(3) Property — insurance coverage for the direct or consequential loss of or damage to property of every kind.

(4) Casualty — insurance coverage against legal liability, including liability for death, injury, or disability, or for damage to real or personal property.

(5) Variable life and variable annuity products — insurance coverage provided under variable life insurance contracts and variable annuities.

(6) Personal lines — property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Credit — limited line credit insurance.

(8) Title — insurance coverage against loss or damage on account of encumbrances on or defects in the title to real estate.

(9) Any other line of insurance permitted under Indiana laws or administrative rules.

(b) A person who requests and receives qualification under subsection (a)(5) for variable life and annuity products:

(1) is considered to have requested; and

(2) shall receive;

a life qualification under subsection (a)(1).

(c) A resident insurance producer may not request separate qualifications for property insurance and casualty insurance under subsection (a).

(d) An insurance producer license remains in effect unless revoked or suspended, as long as the renewal fee set forth in section 32 of this chapter is paid and the educational requirements for resident individual producers are met by the due date.

(e) An individual insurance producer who:

(1) allows the individual insurance producer's license to lapse; and

(2) completed all required continuing education before the license expired;

may, not more than twelve (12) months after the expiration date of the license, reinstate the same license without the necessity of passing a written examination. A penalty in the amount of three (3) times the unpaid renewal fee shall be required for any renewal fee received after the expiration date of the license. However, the department of insurance may waive the penalty if the renewal fee is received not more than thirty (30) days after the expiration date of the license.

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(f) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of the license renewal procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with the license renewal procedures.

(g) An insurance producer license shall contain the licensee's name, address, personal identification number, date of issuance, lines of authority, expiration date, and any other information the commissioner considers necessary.

(h) A licensee shall inform the commissioner of a change of address not more than thirty (30) days after the change by any means acceptable to the commissioner. The failure of a licensee to timely inform the commissioner of a change in legal name or address shall result in a penalty under section 12 of this chapter.

(i) To assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC), or any affiliates or subsidiaries that the NAIC oversees, to perform ministerial functions, including the collection of fees related to producer licensing, that the commissioner and the nongovernmental entity consider appropriate.

(j) The commissioner may participate, in whole or in part, with the NAIC or any affiliate or subsidiary of the NAIC in a centralized insurance producer license registry through which insurance producer licenses are centrally or simultaneously effected for states that require an insurance producer license and participate in the centralized insurance producer license registry. If the commissioner determines that participation in the centralized insurance producer license registry is in the public interest, the commissioner may adopt rules under IC 4-22-2 specifying uniform standards and procedures that are necessary for participation in the registry, including standards and procedures for centralized license fee collection.

SECTION 4. IC 27-1-15.7-2, AS AMENDED BY P.L.1-2002, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) **Except as provided in subsection (b)**, to renew a license issued under IC 27-1-15.6:

- (1) a resident insurance producer must complete at least forty (40) hours of credit in continuing education courses; and
- (2) a resident limited lines producer must complete at least ten (10) hours of credit in continuing education courses.

An attorney in good standing who is admitted to the practice of law in

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Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) **To renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least fourteen (14) hours of credit in continuing education courses related to the business of title insurance with at least four (4) hours of instruction in a structured setting or comparable self-study concerning:**

- (1) ethical practices in the marketing and selling of title insurance;
- (2) title insurance underwriting;
- (3) escrow issues; and
- (4) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following limited lines producers are not required to complete continuing education courses to renew a license under this chapter:

- (1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
- (2) A limited line credit insurance producer.

~~(c)~~ (d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

- (1) after the effective date of the licensee's last renewal of a license under this chapter; or
- (2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

~~(d)~~ (e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than forty (40) hours of credit in continuing education courses to renew the license.

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~~(f)~~ (f) Except as provided in subsection ~~(f)~~, (g), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

~~(f)~~ (g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

~~(g)~~ (h) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is in a format authorized by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and

(2) any other information required by the commissioner.

~~(h)~~ (i) A continuing education statement submitted under subsection ~~(g)~~ (h) may be reviewed and audited by the department.

~~(i)~~ (j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

SECTION 5. IC 27-1-15.7-5, AS ADDED BY P.L.132-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following criteria:

(1) Be conducted or developed by an:

(A) insurance trade association;

(B) accredited college or university;

(C) educational organization certified by the insurance producer education and continuing education advisory council; or

(D) insurance company licensed to do business in Indiana.

(2) Provide for self-study or instruction provided by an approved instructor in a structured setting, as follows:

(A) For life insurance producers, not less than twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

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(iii) principles of life insurance.

(B) For health insurance producers, not less than twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of health insurance.

(C) For life and health insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of life insurance; and

(iv) principles of health insurance.

(D) For property and casualty insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of property insurance; and

(iv) principles of liability insurance.

(E) For personal lines producers, a minimum of twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of property and liability insurance applicable to coverages sold to individuals and families for primarily noncommercial purposes.

(F) For title insurance producers, not less than ten (10) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of title insurance;

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(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of title insurance, including underwriting and escrow issues; and

(iv) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

(3) Instruction provided in a structured setting must be provided only by individuals who meet the qualifications established by the commissioner under subsection (b).

(b) The commissioner, after consulting with the insurance producer education and continuing education advisory council, shall adopt rules under IC 4-22-2 prescribing the criteria that a person must meet to render instruction in a certified prelicensing course of study.

(c) The commissioner shall adopt rules under IC 4-22-2 prescribing the subject matter that an insurance producer program of study must cover to qualify for certification as a certified prelicensing course of study under this section.

(d) The commissioner may make recommendations that the commissioner considers necessary for improvements in course materials.

(e) The commissioner shall designate a program of study that meets the requirements of this section as a certified prelicensing course of study for purposes of IC 27-1-15.6-6.

(f) The commissioner may, after notice and opportunity for a hearing, withdraw the certification of a course of study that does not maintain reasonable standards, as determined by the commissioner for the protection of the public.

(g) Current course materials for a prelicensing course of study that is certified under this section must be submitted to the commissioner upon request, but not less frequently than once every three (3) years.

SECTION 6. IC 27-1-15.7-6, AS ADDED BY P.L.132-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this section, "council" refers to the insurance producer education and continuing education advisory council created under subsection (b).

(b) The insurance producer education and continuing education advisory council is created within the department. The council consists of the commissioner and ~~twelve (12)~~ **thirteen (13)** members appointed by the governor as follows:

(1) Two (2) members recommended by the Professional Insurance Agents of Indiana.

(2) Two (2) members recommended by the Independent Insurance

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Agents of Indiana.

(3) Two (2) members recommended by the Indiana Association of Insurance and Financial Advisors.

(4) Two (2) representatives of direct writing or exclusive producer's insurance companies.

(5) One (1) representative of the Association of Life Insurance Companies.

(6) One (1) member recommended by the Insurance Institute of Indiana.

(7) One (1) member recommended by the Indiana Land Title Association.

(8) Two (2) other individuals.

(c) Members of the council serve for a term of three (3) years. Members may not serve more than two (2) consecutive terms.

(d) Before making appointments to the council, the governor must:

(1) solicit; and

(2) select appointees to the council from;

nominations made by organizations and associations that represent individuals and corporations selling insurance in Indiana.

(e) The council shall meet at least semiannually.

(f) A member of the council is entitled to the minimum salary per diem provided under IC 4-10-11-2.1(b). A member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the state department of administration and approved by the state budget agency.

(g) The council shall review and make recommendations to the commissioner with respect to course materials, curriculum, and credentials of instructors of each prelicensing course of study for which certification by the commissioner is sought under section 5 of this chapter and shall make recommendations to the commissioner with respect to educational requirements for insurance producers.

(h) A member of the council or designee of the commissioner shall be permitted access to any classroom while instruction is in progress to monitor the classroom instruction.

(i) The council shall make recommendations to the commissioner concerning the following:

(1) Continuing education courses for which the approval of the commissioner is sought under section 4 of this chapter.

(2) Rules proposed for adoption by the commissioner that would affect continuing education.

SECTION 7. [EFFECTIVE JULY 1, 2004] (a) IC 27-1-15.7-2, as

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1 amended by this act, applies only to a limited lines producer with
 2 a title qualification who renews the limited lines producer's license
 3 issued under IC 27-1-15.6 after December 31, 2005.

4 (b) IC 27-1-15.7-5, as amended by this act, does not apply to an
 5 insurance producer program of study until January 1, 2005.

6 (c) This SECTION expires July 1, 2010.

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 481, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 481 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 6, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 481, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 21, delete ":" and insert "**who:**

(A) furnishes only title insurance rate information at the request of a consumer; and

(B) does not discuss the terms or conditions of a title insurance policy."

Page 3, delete lines 22 through 36.

Page 5, line 27, delete "and against loss by reason of nonpayment of the" and insert ".".

Page 5, delete lines 28 through 29.

Page 12, line 14, after "applies" insert "**only**".

Page 12, line 16, delete "2004." and insert "**2005**".

Page 12, line 17, after "(b)" insert "**IC 27-1-15.7-5, as amended by this act, does not apply to an insurance producer program of study until January 1, 2005.**

(c)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 481 as printed January 30, 2004.)

FRY, Chair

Committee Vote: yeas 14, nays 0.

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